

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

BILLY EARL HARRISON, } CV 14-2042-DMG (SH)
Plaintiff, } ORDER ACCEPTING AMENDED REPORT
v. } AND RECOMMENDATION OF
SGT. SHAW, et al., } UNITED STATES MAGISTRATE JUDGE;
Defendants. } and ORDER

Pursuant to 28 U.S.C. Section 636(b)(1)(C), the court has reviewed the Complaint and other papers along with the attached Amended Report and Recommendation of the United States Magistrate Judge, and has made a *de novo* determination of the Amended Report and Recommendation.

IT IS HEREBY ORDERED that:

1. The Amended Report and Recommendation is approved and accepted.

1 2. Plaintiff's Complaint against Defendant Shaw is dismissed with leave
2 to amend for failure to state a claim pursuant to 28 U.S.C.
3 § 1915(e)(2)(B).

4 3. Plaintiff's official capacity damages claim and his due process prisoner
5 grievance claim are dismissed without leave to amend.

6 If plaintiff wishes to pursue this action in this court, he must file a First
7 Amended Complaint within **thirty days** of the date this Order Accepting the
8 Amended Report and Recommendation is filed. The Amended Complaint, bearing
9 the number CV 14-2042-DMG (SH), must be a complete and independent document
10 and must not refer to prior pleadings. Plaintiff is cautioned that failure to file a First
11 Amended Complaint within the time specified by this Order may result in dismissal
12 of the action with prejudice on the grounds stated in the Amended Report and
13 Recommendation of the United States Magistrate Judge and/or for failure to
14 prosecute.

15 In preparing a first amended complaint, plaintiff must bear in mind the
16 deficiencies of the current pleading, and must assure that they are not repeated.
17 Plaintiff must take particular note of the following guidelines:

18 1. Plaintiff must set forth the jurisdictional grounds for his claims at the
19 outset of the Complaint.

20 2. The Complaint must include only factual allegations directly relevant
21 to plaintiff's claims, which must be stated in separate, numbered
22 paragraphs (preferably in chronological order), each limited to a single
23 set of circumstances. The facts should be stated in simple, complete
24 sentences. Repetition is to be avoided.

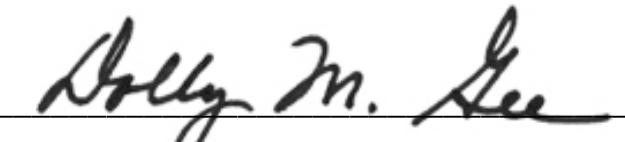
25 3. The Complaint must clearly identify the specific acts on which each
26 claim is based. Insofar as possible, the allegations should include the
27 date, time, place and circumstances of the offending conduct by each
28 defendant, a clear statement of what each defendant did or failed to do,

1 and the damage or injury suffered by plaintiff as a result of each
2 defendant's conduct.

3 4. If civil rights violations are claimed, the complaint must specifically
4 set forth the federal constitutional right or rights infringed with respect
5 to each alleged wrongful act or omission.
6 5. Plaintiff is not permitted to add defendants or claims without first
7 seeking leave of court.

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9 IT IS FURTHER ORDERED that the Clerk shall serve forthwith a copy of
10 this Order on the Plaintiff.

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12 DATED: August 28, 2014

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15 DOLLY M. GEE
16 UNITED STATES DISTRICT JUDGE
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